

**CITY OF FLORENCE
PLANNING COMMISSION**

RESOLUTION PC 16 10 CUP 03

A REQUEST FOR A CONDITIONAL USE PERMIT TO OPEN AND OPERATE A RETAIL RECREATIONAL MARIJUANA FACILITY AT 1480 HIGHWAY 101 IN THE MAINSTREET AREA B ZONING DISTRICT, ASSESSOR’S MAP 18-12-27-44 TAXLOT 11500.

WHEREAS, application was made by Dustin Foskett of Buds4U for a Conditional Use Permit as required by FCC 10-1-1-4, FCC 10-4-4, and FCC 10-4-12; and

WHEREAS, the Planning Commission/Design Review Board met in a public hearing on August 9, 2016 as outlined in Florence City Code 10-1-1-5, to consider the application, evidence in the record, and testimony received, and

WHEREAS, the Planning Commission/Design Review Board determined per FCC 10-4-10, after review of the application, testimony and evidence in the record, that the application meets the criteria through compliance with certain Conditions of Approval; and

WHEREAS, the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact, staff recommendation and evidence and testimony presented to them, that the application meets the applicable criteria.

NOW THEREFORE BE IT RESOLVED that the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact and the evidence in record that:

The request for a Conditional Use Permit to approve the location of a retail recreational marijuana facility in the Mainstreet Area B zoning district meets the applicable criteria in Florence City Code and the Florence Realization 2020 Comprehensive Plan with the conditions of approval as listed below.

Conditions of Approval:

1. The application, as presented, meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met.

Approval for shall be shown on:

”A” Findings of Fact

“B” Site & Updated Landscaping Plan

Findings of Fact attached as Exhibit “A” are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or

changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of a building permit.
3. The parking spaces shall be maintained and shall not be eliminated, used for the storage of materials of any type, or used for loading or unloading operations during business hours.

4. Conditional Use Permit Requirements

- 4.1. Authorization of a conditional use permit shall be void one (1) year after the date of approval, August 9, 2017, unless the use commences by this date and no building permits are necessary.
- 4.2. The discontinuance of the existing conditional use shall be considered the cessation of operations of the medical marijuana dispensary. The discontinuance of the retail recreational conditional use shall be considered the cessation of operations of the retail marijuana facility. This conditional use permit shall not be transferrable and discontinuance shall be considered immediate following cessation of approved activities at 1480 Rhododendron Drive as prescribed in FCC 10-4-9.
- 4.3. The applicant shall provide a cigarette receptacle for the deposit of cigarette butts further than 10 feet from the main entrance to the building. The applicant shall take other measures and post signage as necessary per the Oregon ICAA.

5. Timelines & Licensing

- 5.1. Unless otherwise specified, Conditions of Approval shall be completed prior to February 9, 2017.
- 5.2. The applicant shall provide manufacturer's information prior to six months from the date of issuance of the conditional use permit (February 9, 2017) of installation of an effective odor control system such as by carbon filtration.

- 5.3.** Upon final approval, the applicant shall submit proof of current and active registration with the OLCC to the City prior to operation of the recreational marijuana retail facility. This information shall be kept current and submitted to the City following any changes in licensing or property ownership.

6. Design Review

- 6.1.** The applicant shall post signage within their business encouraging the use of on-street parking in front of the business and parking to the rear in order to discourage vehicles from encroaching onto other nearby properties.
- 6.2.** The applicant has proposed no modification of the color, building materials, or exterior appearance, but shall abide by the policies established in the Downtown Implementation Plan. If the applicant or property owner chooses to change the building color, colors chosen shall be of a muted, coastal-themed palette and shall be approved by the Planning Department.

7. Zoning Requirements

- 7.1.** The applicant shall place their trash containers within a trash enclosure meeting the requirements of FCC 10-27-5-I.
- 7.2.** Outdoor storage of materials, manufacturing, compounding, processing, and treatment of products shall not be allowed. Unreasonable odor, dust, smoke, noise, vibration, or appearance shall not be allowed. Odors may not emanate from the facility.

8. Landscaping

- 8.1.** The applicant shall pocket-plant one additional shrub in order to meet code requirements for the site width.
- 8.2.** Plantings shall be irrigated unless deemed a drought tolerant plant through the Tree and Plant List. In which case, the applicant shall perform temporary irrigation until the plant has become established or an irrigation system has been installed. If the applicant has not permanently irrigated the plantings prior to August 9, 2017, and the plantings appear to still require regular irrigation, the applicant shall install a permanent, underground irrigation system with a backflow prevention device to all installed landscaping elements.
- 8.3.** The applicant shall maintain their landscaping and replace any failed plantings with an equivalent specimen within six months of their dying or removal.
- 9.** The applicant shall maintain the vision clearance area free of visual obstructions from 2' 6" to 8' in height.

ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD the 9th day of August, 2016.

CURT MUILENBURG, Chairperson
Florence Planning Commission

DATE

Nopal Street. The street comprising the eastern portion of the property was vacated in 1961 as part of Ordinance No. 369.

The building at 1480 Rhododendron Drive received a Design Review Board approval for an office addition on June 17, 1986. The 288 square foot addition was completed later that year.

The ADA ramp to the entrance from the rear parking pad was approved as part of AR 11 03 DR 03. At the time of the approval, the building was unoccupied and was occupied only briefly by a bridal shop.

The applicants proposed and received approval for a medical marijuana dispensary through Resolution PC 15 10 CUP 05 on April 28, 2015. These findings review not only the applicant's compliance with code for this application, but also their previous conditions of approval.

The OLCC has allowed medical marijuana dispensaries to transition to retail recreational marijuana sales beginning January 2017. The applicant has proposed to cease sales of medical marijuana and sell only retail recreational marijuana. Both uses are conditionally approved. This is an application for a change of use to a conditional use.

III. NOTICES & REFERRALS

Notice: On July 19, 2016 notice was mailed to surrounding property owners within 300 feet of the property. The property was posted on July 19, 2016. Notice was published in the Siuslaw News on August 3, 2016.

At the time of this report, the City had received no written public comments on the proposal.

Referrals: On July 19, 2016 referrals were sent to the Florence Building Department, Florence Police Department, Florence Public Works, Florence Urban Renewal Agency, Oregon Liquor Control Commission, and Siuslaw Valley Fire and Rescue.

At the time of this report, the City had received no referral comments on the proposal.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code, Title 10:

- Chapter 1: Zoning Administration, Section 1-5
- Chapter 3: Off-Street Parking and Loading, Sections 2 through 5 & 8 through 10
- Chapter 4: Conditional Uses, Sections 3 through 11, & 12-I
- Chapter 6: Design Review, Sections 5, 6 & 9
- Chapter 27: Mainstreet District, Sections 3 through 5
- Chapter 34: Landscaping, Sections 3 and 5
- Chapter 35: Access and Circulation, Sections 2-12, 2-14 & 3

Realization 2020 Florence Comprehensive Plan:

V. PROPOSED FINDINGS

Code criteria are listed in **bold**, with staff response beneath. Only applicable criteria have been listed.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-5: LAND USE HEARINGS:

A. Hearings are required for quasi-judicial land use matters requiring Planning Commission review.

B. Notification of Hearing:

1. At least twenty (20) days prior to a quasi-judicial hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

2. Prior to a quasi-judicial hearing, notice shall be published one (1) time in a newspaper of general circulation.

Notification of the quasi-judicial land use hearing for this application was mailed on July 19, 2016, 22 days prior to the hearing, to all property owners within 300 feet of the subject property. A notice was also published in the Siuslaw News one time on August 3, 2016. The notification procedures meet the requirements of FCC 10-1-1-5.

C. Notice Mailed to Surrounding Property Owners - Information provided:

1. The notice shall:

a. Explain the nature of the application and the proposed use or uses which could be authorized;

- b. **List the applicable criteria from the ordinance and the plan that apply to the application at issue;**
- c. **Set forth the street address or other easily understood geographical reference to the subject property;**
- d. **State the date, time and location of the hearing;**
- e. **State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;**
- f. **State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
- g. **State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;**
- h. **Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.**
- i. **Include the name of a local government representative to contact and the telephone number where additional information may be obtained.**

The notice mailed to surrounding property owners as described above contained information regarding the nature of the application and uses proposed; applicable criteria applying to the issue; the street address of the property; the date, time and location of the meeting; the need to “raise it or waive it” appeal rights; stated that the application and criteria were available for inspection at no cost and would be provided at reasonable cost; stated that a copy of the staff report would be available no less than seven days prior to the hearing regarding the item; included a statement of the requirements for submission of testimony; and included the name of the staff person to contact, telephone number for the Planning Department and an email address where questions or testimony could be sent. The application was properly noticed and these criteria are met.

D. Hearing Procedure: All quasi-judicial hearings shall conform to the procedures of Florence City Code Title 2 Chapter 10.

The Planning Commission met and decided upon the application in accordance with FCC 2-10.

E. Action by the Planning Commission:

1. **At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
2. **Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
4. **There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

The Planning Commission received all evidence deemed relevant at the public hearing. The Planning Commission may deny approval should they determine that insufficient evidence has been provided to support the application meeting the code requirements. The burden to supply such evidence is upon the applicant.

F. Notice of Decision by the Planning Commission: A notice of the action or decision of the Planning Commission, and right of appeal shall be given in writing to the applicant. Any party who testified either in writing or verbally at the hearing must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

Notice of Decision shall be mailed to the applicant and all parties providing testimony either in writing or verbally at the hearing who provided a mailing address.

H. Consolidated Procedures: Whenever possible an application for development such as a Conditional Use, Variance, or other action requiring Planning Commission, or Design Review Board approvals be consolidated to provide faster service to the applicant. (ORS 227.175(2)), (Amd. by Ord. No. 4, Series 2011)

The applicant has requested a Conditional Use Permit with Design Review. Staff has consolidated required approvals in order to provide faster service to the applicant. The criteria in this staff report address both Design Review and Conditional Uses.

TITLE 10: CHAPTER 3: OFF-STREET PARKING AND LOADING

10-3-2: GENERAL PROVISIONS:

- A. The provision for and maintenance of off-street parking and loading spaces are continuing obligations of the property owners. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space.**

The proposed site includes a concrete parking pad behind the structure at 1480 Rhododendron Drive. The property owner and applicant shall ensure that the off-street parking provided is maintained and remains available and exclusive as off-street parking and loading. Because of the shared nature of the property, the applicant was required to designate their provided off-street parking as reserved for that business as Condition 3.1 of Resolution PC 15 10 CUP 05. This signage has been posted at the property as required – no new conditions will be required.

- B. At the time of new construction or enlargement or change in use of an existing structure within any district in the City, off-street parking spaces shall be provided as outlined in this Chapter, unless requirements are otherwise established by special review or City Council action. Additional parking spaces shall meet current code.**

As part of the 2011 application to add an ADA ramp to the entrance to the building, the property owner added the existing concrete parking pad behind the building. The parking area was not marked at that time. The parking area provided has since been brought up to current City Code.

- C. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Chapter.**
- D. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees, and shall not be used for storage of materials of any type.**
- F. The required off-street parking for nonresidential uses shall not be used for loading and unloading operations during regular business hours.**

No new parking spaces are proposed by the applicant. The applicant provided two parking spaces as part of their previous approval, one ADA Accessible space to the rear of the building (south) and one on-street parking space in front of the building (north). These criteria are met.

The parking spaces shall be maintained and shall not be eliminated, used for the storage of materials of any type, or used for loading or unloading operations during business hours. **(Condition 3)**

10-3-3: MINIMUM STANDARDS BY USE: The number of required off-street vehicle parking spaces shall be determined in accordance with the standards

in Table 10-3-1. Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described below:

- A. Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, and shared parking. Parking in driveways does not count toward required minimum parking.

The applicant has proposed parking within a parking lot and in an approved on-street location. This criterion is met.

10-3-4: MINIMUM REQUIRED PARKING BY USE: During the largest shift at peak season, fractional space requirements shall be counted as the next lower whole space (rounded down). Square footages will be taken from the gross floor area (measurements taken from exterior of building). Applicants may ask the Design Review Board a reduction for parking spaces as part of their land use application. The applicant will have to provide the burden of evidence to justify the reduction proposed. The Design Review Board and/or staff may require the information be prepared by a registered traffic engineer. Table 10-3-1 lists the minimum parking spaces required by use, with a minimum no less than two (2) spaces, plus additional spaces(s) as needed to meet the minimum accessible parking requirement.

Table 10-3-1, Minimum Required Parking By Use:

C. Commercial and Retail Trade Types:

| | |
|---|---|
| Retail Sales and Service (See also Drive-Up Uses) | Retail: 1 spaces per 333 sq. ft., except bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales) 1 per 500 sq. ft. |
|---|---|

The applicant previously proposed a medical marijuana dispensary, which fits the retail sales parking category. Retail marijuana sales also fits this same parking category. Code has since been changed to stipulate that the minimum of two parking spaces does not include required ADA Accessible parking, but since the applicant has not proposed an expansion of the building, and only a change of use to a conditional use, this additional parking space will not be required at this time.

10-3-5: VEHICLE PARKING - MINIMUM ACCESSIBLE PARKING:

- A. Accessible parking shall be provided for all uses in accordance with the standards in Table 10-3-2; parking spaces used to meet the standards in Table 10-3-2 shall be counted toward meeting offstreet parking requirements in Table 10-3-1;

- B. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;
- E. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

| Table 10-3-2 – Minimum Number of Accessible Parking Spaces Source: ADA Standards for Accessible Design 4.1.2(5) | | | |
|---|--|--|--|
| Total Number of Parking Spaces Provided (per lot) | Total Minimum Number of Accessible Parking Spaces (with 60” access aisle, or 96” aisle for vans*) | Van Accessible Parking Spaces with min. 96” wide access aisle | Accessible Parking Spaces with min. 60” wide access aisle |
| 1 to 25 | 1 | 1 | 0 |

As part of Condition 3.3 of PC 15 10 CUP 05, the applicant was required to provide one ADA Accessible parking to the south of the building. This parking space was provided and meets code. These criteria are met.

10-3-8: PARKING AREA IMPROVEMENT STANDARDS: All public or private parking areas, loading areas and outdoor vehicle sales areas shall be improved according to the following: All required parking areas shall have a durable, dust free surfacing of asphaltic concrete, cement concrete , porous concrete, porous asphalt, permeable pavers such as turf, concrete, brick pavers or other materials approved by the City. Driveways aprons shall be paved for the first fifty feet (50’) from the street.

- B. All parking areas except those required in conjunction with a single-family or duplex dwelling shall be graded so as not to drain storm water over public sidewalks. All drainage systems shall be connected to storm sewers where available. Parking lot surfacing shall not encroach upon a public right of way except where it abuts a concrete public sidewalk, or has been otherwise approved by the City.

Overall, this site is pre-existing and non-conforming. Storm water does not drain over public sidewalks. There is a catch basin within the driveway area connected to a swale. No changes will be required to the grading of the parking lot as part of this application.

- C. Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses.

Per Conditions 3.4 and 3.5 of Resolution PC 15 10 CUP 05, the applicant constructed a driveway leading south from Rhododendron Drive to the southernmost edge of the parking area. This driveway was constructed and these criteria are met.

E. No parking area shall extend into the public way except by agreement with the City.

No parking area exists or has been proposed which extends into the public right-of-way. Parking has been proposed on-street within the Rhododendron Drive right-of-way, which is an acceptable solution for the Mainstreet District. This criterion is met.

G. Lighting: Refer to Section 10-37 of this Title for requirements.

The applicant has installed lighting as part of their previous application and these criteria will be addressed below as part of FCC 10-37.

I. Unless otherwise provided, required parking and loading spaces shall not be located in a required front or side yard.

Proposed parking is located at the rear of the building. The proposal meets this criterion.

J. Building permits are required for all parking lot construction or resurfacing.

No current parking lot construction or resurfacing is proposed or required. This criterion is met.

K. A plan, drawn to a suitable scale, indicating how the off- street parking and loading requirements are to be met shall accompany an application for a building permit. The plan shall indicate in detail all of the following:

1. Individual parking and loading spaces.
2. Circulation area.
3. Access to streets and property to be served.
4. Curb cut dimensions.
5. Dimensions, continuity and substance of screening, if any.
6. Grading, drainage, surfacing and subgrading details.
7. Obstacles, if any, to parking and traffic circulation in finished parking areas.
8. Specifications for signs, bumper guards and curbs.
9. Landscaping and lighting.

The applicant has provided a parking plan showing the existing individual parking spaces and driveway. No modifications of the parking lot or driveways will be required, hence, no plan will be required demonstrating the above details.

10-3-9: PARKING STALL DESIGN AND MINIMUM DIMENSIONS: All off-street parking spaces (except those provided for single-family and duplex homes) shall be improved to conform to City standards for surfacing, stormwater management, and striping and where provisions conflict, the provisions of FCC Title 9 Chapter 5 shall prevail. Standard parking spaces shall conform to minimum dimensions specified in the following standards and Figures 10-3(1) and Table 10-3-3:

- A. Motor vehicle parking spaces shall measure nine (9) feet and six (6) inches wide by nineteen (19) feet long.
- B. Each space shall have double line striping with two feet (2') wide on center.
- C. The width of any striping line used in an approved parking area shall be a minimum of 4" wide.
- D. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;
- E. Parking area layout shall conform to the dimensions in Figure 10-3(1), and Table 10-3-3, below;
- F. Parking areas shall conform to Americans With Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines.

The applicant has submitted a parking plan with the details required. This criterion is met.

10-3-10: BICYCLE PARKING REQUIREMENTS: All new development that is subject to Site Design Review, shall provide bicycle parking, in conformance with the standards and subsections A-H, below.

- A. **Minimum Size Space:** Bicycle parking shall be on a two (2) feet by six (6) feet minimum.
- B. **Minimum Required Bicycle Parking Spaces.** Short term bicycle parking spaces shall be provided for all non-residential uses at a ratio of one bicycle space for every ten vehicle parking spaces. In calculating the number of required spaces, fractions shall be rounded up to the nearest whole number, with a minimum of two spaces.

- D. **Location and Design.** Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space other than handicap parking, or fifty (50) feet, whichever is less and shall be easily accessible to bicyclists entering the property from the public street or multi-use path.
- E. **Visibility and Security.** Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage;
- F. **Lighting.** For security, bicycle parking shall be at least as well lit as vehicle parking. Refer to Section 10-37 of this Title for requirements.
- G. **Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
- H. **Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards. If bicycle parking cannot be provided safely, the Design Review Board or Community Development Director may waive or modify the bicycle parking requirements.

Per Condition 3.8 of Resolution PC 15 10 CUP 05, the applicant has provided two bicycle parking spaces to the east of the entrance to the building which meets the requirements of FCC 10-3-10. These criteria are met.

TITLE 10: CHAPTER 4: CONDITIONAL USES

10-4-3: USE PERMIT PREREQUISITE TO CONSTRUCTION: When a conditional use permit is required by the terms of this Title, no building permit shall be issued until the conditional use permit has been granted by the Planning Commission, and then only in accordance with the terms and conditions of the conditional use permit. Conditional use permits may be temporary or permanent.

10-4-4: APPLICATIONS: The application for a conditional use permit shall be made in writing to the Planning Commission by the owner of the land in consideration or his agent, duly authorized in writing. The application shall include the following information:

- A. **Site and building plans and elevations.**
- B. **Existing conditions on the site and within three hundred feet (300') of a site that is one (1) acre or larger and within one hundred feet (100') from a site that is less than one (1) acres in size.**
- C. **Existing and proposed utility lines and easements.**

- D. Operational data explaining how the buildings and uses will function.**
- E. Any other pertinent information requested by the Planning Commission such as architectural renderings of the buildings and structures involved in the proposed development.**

10-4-5: PUBLIC HEARING AND NOTICE: The Planning Commission shall hold at least one public hearing on each conditional use permit application.

10-4-6: ACTION: The Planning Commission shall make specific findings for granting or denying a conditional use permit in accordance with the general criteria and/or conditions of Section 10-4-9 of this Title.

10-4-7: EFFECTIVE DATE: A conditional use permit shall become effective at the close of the appeal period.

The Planning Commission held a hearing August 9, 2016 regarding the proposed Retail recreational marijuana facility. The Planning Commission shall make specific findings regarding the application for a conditional use permit according to the criteria as presented in these findings. Should the request for a conditional use permit be approved, it shall become effective at the close of the appeal period.

10-4-8: EXPIRATION OF CONDITIONAL USE PERMIT:

- A. Authorization of a conditional use permit shall be void one (1) year after the date of approval of a conditional use application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:**
 - 1. The request for an extension is made in writing prior to expiration of the original approval.**
 - 2. There are special or unusual circumstances that exist which warrant an extension.**
 - 3. No material changes of surrounding land uses or zoning has occurred. The Planning Commission may deny the request for an extension of a conditional use if new land use regulations have been adopted that affect the applicant’s proposal. (Ord. 26, 2008)**
- B. The discontinuance of a conditional use for twelve (12) consecutive months shall constitute expiration of that conditional use. The use occupying the premises thereafter shall conform to the regulations of the zoning district in which it is located.**

Authorization of a conditional use permit shall be void one (1) year after the date of approval, August 9, 2017, unless the use commences by this date and no building permits are necessary. **(Condition 4.1)**

The discontinuance of the existing conditional use shall be considered the cessation of operations of the medical marijuana dispensary. The discontinuance of the retail recreational conditional use shall be considered the cessation of operations of the retail marijuana facility. This conditional use permit shall not be transferrable and discontinuance shall be considered immediate following cessation of approved activities at 1480 Rhododendron Drive as prescribed in FCC 10-4-9. **(Condition 4.2)**

10-4-9: REVOCATION: The Planning Commission, after notice and public hearing, may revoke a conditional use permit for any of the following reasons:

- A. Failure to comply with any prescribed requirement of the conditional use permit.**
- B. Violation of any of the provisions of this Title.**
- C. The use for which the permit was granted has ceased to exist or has been suspended for six (6) consecutive months or for eighteen (18) months during any three (3) year period.**
- D. The use for which the permit was granted has been so exercised as to be detrimental to the public health, safety or general welfare, or so as to constitute a nuisance. (Ord. 625, 6-30-80).**

Failure to comply with FCC 10-4-9 shall necessitate the revocation of the conditional use permit. The applicant is encouraged to meet the requirements of the conditional use permit as well as the requirements of Florence City Code.

10-4-10: GENERAL CRITERIA: A conditional use permit may be granted only if the proposal conforms to all the following general criteria: (Ord. 669, 5-17-82)

- A. Conformity with the Florence Comprehensive Plan.**

Retail marijuana facilities are not specifically mentioned within the Comprehensive Plan as the Comprehensive Plan predates the legality of those uses within the City. In a larger sense, however, retail commercial activities are addressed within the Comprehensive Plan. Conformity with the Florence Comprehensive Plan will be addressed as part of the review of applicable Comprehensive Plan Policies.

- B. Compliance with special conditions established by the Planning Commission to carry out the purpose of this Chapter.**

Special conditions of approval shall be established by the Planning Commission to carry out the purpose of this Chapter as well as the Florence Realization 2020 Comprehensive Plan. Review of the conditional use permit criteria and the policies

of the Comprehensive Plan are reviewed later in this report. Conditions as necessary are included.

- C. Findings that adequate land is available for uses which are permitted outright in the district where the conditional use is proposed. Available land can be either vacant land or land which could be converted from another use within the applicable zoning district. Land needs for permitted uses may be determined through projections contained in the Florence Comprehensive Plan or other special studies.**

Because of the nature of the use proposed, there are only a handful of appropriate sites within the Florence city limits. The applicant applied for this conditional use permit after the adoption of Ordinance No. 12, Series 2015.

The proposed location of the retail recreational marijuana facility must be outside of areas prescribed by Oregon state law and Florence City Code, including 175 feet from residential zoning districts, 200 feet from parks, 400 feet from Miller Park, 200 feet from libraries, 200 feet from child care facilities, and 1000 feet from schools. In addition, the proposed facility must be a permitted use in the zoning district where it has been proposed. Retail recreational marijuana stores are a conditional use in all zoning districts in which they are allowed. The proposal meets this criterion.

- D. Conditional uses are subject to design review under the provisions of Chapter 6 of this Title, except single family and duplex residential use. (Ord. 625, 6-30-80) See Code Section 10-6-3 for Design Review requirements.**

Design Review of the site will be addressed later in these findings.

- E. Adequacy of public facilities, public services and utilities to service the proposed development.**

The public facilities, services, or utilities necessary to service the proposed structure exist within the surrounding right-of-ways. The public services available are adequate to service the proposed medical marijuana dispensary.

- F. Adequacy of vehicle and pedestrian access to the site, including access by fire, police and other vehicles necessary to protect public health and safety. (Ord. 669, 5-17-82).**

The proposed site is accessible by both private and emergency vehicles. Pedestrian access is available adjacent to the lot and five-foot sidewalks are currently available along the entire frontage of the site. The proposed dispensary will be located along a street typical of those within Florence with a width more than adequate to allow the passage of vehicles necessary to protect public health and safety. The site will also be no further than 200 feet from a fire hydrant, available at the corner of Rhododendron Drive and Highway 101.

10-4-11: GENERAL CONDITIONS: The Planning Commission may require any of the following conditions it deems necessary to secure the purpose of this Chapter. Where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district. In addition, conditions may be required by the Design Review Board. Such conditions may include: (Ord 625, 6-30-80; amd. Ord 669, 5-17-82)

A. Regulation of uses, special yard setbacks, coverage and height.

The use proposed will be regulated further by FCC 10-4-12-I. No special yard setbacks, coverage, or height will be required, however.

B. Requiring fences, walls, screens and landscaping plus their maintenance.

Landscaping and other screening will be addressed below under section FCC 10-34.

C. Regulation and control of points of vehicular ingress and egress.

Vehicles will be able to access the proposed facility through the existing driveway curb cuts and parking lot. This criterion is met.

D. Regulation of noise, vibration, odors, and sightliness.

The applicant will be subject to the same regulations regarding noise, vibration, odors, and sightliness as other commercial uses in Florence. In addition to those regulations, the applicant will also have to abide by FCC 10-4-12-I, as addressed below.

Testimony was received during a public hearing on December 14, 2015 regarding changes to medical marijuana and recreational marijuana code changes that the applicant's site had become littered with cigarette butts from the establishment's customers. The applicant testified at this same public hearing that the business would be attempting to curtail loitering and littering. A site visit by staff following receipt of this application determined that this littering is still taking place and that staff and/or customers were smoking cigarettes from the interior of the facility with the door open, in violation of Oregon's Indoor Clean Air Act (ICAA).

The applicant shall provide a cigarette receptacle for the deposit of cigarette butts further than 10 feet from the main entrance to the building. The applicant shall take other measures and post signage as necessary per the Oregon ICAA. **(Condition 4.3)**

G. Regulation of hours of operation and duration of use or operation.

The applicant has proposed hours of operation of 10 a.m. to 7 p.m. daily. Hours of operation will be addressed as part of review of FCC 10-4-12-I.

H. Requiring a time period within which the proposed use shall be developed.

As stated above and as part of Condition 4.1, this conditional use permit will be valid until one year from the date of approval unless a building permit has been issued or significant construction has taken place.

Unless otherwise specified, Conditions of Approval shall be completed prior to February 9, 2017. **(Condition 5.1)**

I. Requiring bonds to insure performance of special conditions.

No bonds will be required to insure performance of special conditions.

J. Regulation of tree and vegetation removal to maintain soil stability, preserve natural habitat, protect riparian vegetation, buffer conflicting uses, and maintain scenic qualities.

No tree or vegetation removal has been proposed by the applicant nor will removal be permitted.

K. Such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purpose of the Florence Comprehensive Plan.

The proposed use is not inconsistent with the Florence Comprehensive Plan and will not prevent the orderly and efficient development of the City.

10-4-12: ADDITIONAL CONDITIONS: Some land uses by the nature of the activity associated with them require separate and intense consideration by the Planning Commission prior to their establishment. Such uses and additional conditions are as follows:

I. All Medical and Recreational Marijuana Uses requiring licensing or registration by the Oregon Liquor Control Commission or the Oregon Health Authority.

- 1. Medical marijuana dispensaries, recreational marijuana retailers, medical and recreational marijuana processing sites, recreational producers, and marijuana wholesalers are permitted conditionally except as specifically provided for in the Pacific View Business Park District and Limited Industrial District and where permitted as a home occupation. Where a licensed marijuana use is not listed among the uses permitted conditionally or outright in a particular zoning district, the marijuana use is not permitted in that zoning district.**

Medical Marijuana Dispensaries are permitted conditionally within the Mainstreet District. The proposed site is zoned Mainstreet Area B. This use is permitted and this criterion is met.

- 2. Prior to submitting an application for a medical marijuana or recreational marijuana conditionally permitted use, the applicant shall attend a pre-development meeting with Community Development staff. In addition, prior to submitting the conditional use permit, the applicant shall submit a zone verification request for the development site to determine whether the proposed development site complies with the necessary separation requirements for a medical marijuana or recreational use.**

The applicant previously met with staff on March 18, 2015, the applicant attended a pre-development meeting with Florence Planning Department, Florence Police Department, Florence Building Department, and Siuslaw Valley Fire and Rescue staff. At this meeting, the applicant was informed of all the requirements regarding medical marijuana dispensaries, which share much of the same code requirements as recreational marijuana retail stores. Since the code has been amended since this date, the applicant met with staff several times in winter and spring 2016 in order to understand their requirements under their previous approval and the additional requirements for transitioning to retail recreational marijuana sales.

- 3. Medical marijuana dispensaries and marijuana retailers must be separated from the following by a minimum of the listed distance:**
 - a. 175 feet from residential zones**
 - b. 200 feet from public libraries.**
 - c. 200 feet from public parks, except Miller Park which shall be 400 feet.**
 - d. 200 feet from child care facilities licensed by the Oregon Department of Education (registered family child care homes, certified family child care homes, and certified child care centers).**
 - e. 1,000 feet from:**
 - 1. Public elementary or secondary school for which attendance is compulsory under ORS 339.020.**
 - 2. Private or parochial elementary or secondary school, teaching children as described in ORS 339.030.**

School buffers listed in “3.e.” above shall be measured as follows: A straight line measurement in a radius extending

for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the premises of a retailer or dispensary. For all other buffers, distance is measured in a straight line measurement in a radius extending for the buffered distance in every direction from any point on the boundary line of the real property comprising the buffered use to the nearest primary or accessory structure used for medical marijuana facility use. The distance limitations are based upon the uses surrounding the proposed medical marijuana facility location at the time the conditional use application is deemed complete.

The proposed site is one of the locations within Florence that was identified early in the process during Marijuana legislative updates (at the time called a Medical Marijuana Facility) that would be appropriate for a Medical Marijuana Dispensary. The distances required apply to both medical marijuana dispensaries and retail recreational marijuana facilities. The site selected by the applicant meets all of the above distance buffer criteria listed.

4. All medical and recreational marijuana uses shall:

- a. Not be a home occupation, except Medical Marijuana Production and Processing and Recreational Marijuana Producers and Processors in a permanent building as discussed in 'c' below.**
- b. Not locate in a building that also contains a dwelling or caretaker facility.**
- c. Only locate in a permanent building and shall not locate in a temporary or movable structure, such as a high tunnel, greenhouse, trailer, cargo container or motor vehicle, except as provided in 'i'. Medical and Recreational Production not in a residential zone and not a home occupation may conduct outdoor grow operations, excepting in the Highway District.**
- d. Not have a drive-up window or walk-up window.**
- e. Provide exterior lighting after sunset during business hours to light the public entrance to the facility. The lighting shall be positioned so as to not negatively impact the picture quality of any video surveillance system used by the facility.**

- f. **Provide overhead lighting after sunset during business hours for any on-site parking area.**
- g. **Have only one public entrance and the single public entrance shall face a public street.**
- h. **Not share an air circulation system with another use.**
- i. **Not locate in greenhouses or high tunnels, except for producers and production sites that are not home occupations may use those structures in non-residential districts where the business use is permitted.**
- j. **Provide effective odor control system such as by carbon filtration.**
- k. **Not use artificial lighting after sunset and before sunrise with outdoor grow sites and production or those operating in greenhouses or high-tunnels.**
- l. **Position security cameras in such a way as to only show the licensee's property and surrounding public right-of-way.**

The proposed retail marijuana facility will be located within a permanent, stand-alone, commercial structure that does not have a drive-up or walk-up window, does not share an air circulation system with any other use as evidenced by photos provided by the applicant, and has only one public entrance facing a public street. The retail marijuana facility does not share a building with a dwelling and is not a home occupation. The applicant has installed lighting meeting the above criteria as part of their previous approval. Criteria a-i and k-l are met.

The applicant shall provide manufacturer's information prior to six months from the date of issuance of the conditional use permit (February 9, 2017) of installation of an effective odor control system such as by carbon filtration. **(Condition 5.2)**

- 5. **All medical marijuana and recreational marijuana uses must have a current and active registration and/or license to conduct business as a facility from the Oregon Health Authority and from the Oregon Liquor Control Commission, as applicable and must have a current City business license.**

The applicant has submitted an application with the Oregon Liquor Control Commission and is currently seeking approval for their recreational marijuana retail facility. Upon final approval, the applicant shall submit proof of current and active registration with the OLCC to the City prior to operation of the recreational marijuana

retail facility. This information shall be kept current and submitted to the City following any changes in licensing or property ownership. **(Condition 5.3)**

Current and active registration must be kept at all times during operation of the dispensary. The applicant, if lacking current registration with the state, shall immediately cease operations until current and active registration is obtained. **(Condition 5.4)**

TITLE 10: CHAPTER 6: DESIGN REVIEW

10-6-5: GENERAL CRITERIA: The Planning Commission or Design Review Board may require any of the following conditions it deems necessary to secure the purpose and intent of this Chapter. The Board shall, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this Section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval if the costs of such conditions shall not unduly increase the cost of housing. The Board shall have no authority to affect dwelling unit densities. The Board shall consider the following criteria reviewing applications and may set conditions or standards which regulate and limit the following: (Ord. 680, 1-11-83)

- A. Setbacks, yards, height, density and similar design features according to the underlying zoning district.**
- B. Lot area, dimensions and percentage of coverage according to the underlying zoning district.**

The building where the proposed use will take place is pre-existing. The existing setbacks, yards, and height are appropriate for the underlying zoning district. This criterion is met.

- C. Installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC 10-34 Landscaping, and any requirements of the underlying zoning district.**

Screening and landscaping will be addressed as part of review of Chapter 34: Landscaping later in this report.

- D. The location and design of access and egress points for vehicles and pedestrians, including access points along State highways according to standards set forth in FCC 10-35 Access and Circulation, and any requirements of the underlying zoning district.**

The proposed recreational marijuana retail facility will be located in a pre-existing building. The location and design of access and egress points for vehicles and pedestrians likely could not be reasonably modified in accordance with the change proposed.

Pedestrian access is available to the front door from Rhododendron Drive and meets the criteria outlined in FCC 10-35. Access from the rear parking area is available and pre-existing and meets the criteria to the greatest extent that it can. Vehicle access also meets the available criteria. No modification of the existing conditions will be required.

E. Noise, vibration, smoke, dust, odor, light intensity and electrical interferences.

The recreational marijuana retail facility will be free of noise, vibration, smoke, dust, odor, light intensity and electrical interference. No smoking of marijuana by customers will be allowed on-premises.

F. Parking and outside display areas, dimensions, surfacing and on-site traffic circulation according to standards set forth in FCC 10-3 Parking and Loading.

In the time that the medical marijuana dispensary has been in operation, it has been noted that customers and employees park on adjacent lots and on Rhododendron Drive in locations other than those in front of the applicant's business.

The applicant shall post signage within their business encouraging the use of on-street parking in front of the business and parking to the rear in order to discourage vehicles from encroaching onto other nearby properties. **(Condition 6.1)**

G. Architectural quality and aesthetic appearance, including compatibility with adjacent buildings.

The building, reviewed as part of AR 11 03 DR 03 and PC 15 10 CUP 05, is of appropriate architectural quality and aesthetic appearance, and is compatible with adjacent buildings. This criterion is met.

H. Color, building materials and exterior appearance in accordance with the policies established by the City in the Downtown Implementation Plan, and in applicable zoning districts.

The applicant has proposed no modification of the color, building materials, or exterior appearance, but shall abide by the policies established in the Downtown Implementation Plan. If the applicant or property owner chooses to change the building color, colors chosen shall be of a muted, coastal-themed palette and shall be approved by the Planning Department. **(Condition 6.2)**

I. Exterior lighting and security.

Lighting will be addressed in and regulated by FCC 10-37.

J. Public health, safety and general welfare.

The applicant has proposed a secured, monitored facility for the sale of recreational marijuana. This criterion is met.

K. Provision of public facilities and infrastructure according to standards set forth in FCC 10-36 Public Facilities.

The structure of the proposed dispensary, being pre-existing, also has pre-existing services connected. No additional services will be required.

L. Requiring a time period within which the proposed use or portions thereof shall be developed.

The site has already been developed. Required changes shall have until six months from the date of issuance (February 9, 2017), concurrent with operation of the facility, to be completed. Conditions, unless otherwise stated, shall be met by February 9, 2017 in order to continue operation of the facility. **(Condition 4.3)**

M. Requiring bonds to insure performance of special conditions. (Ord. 625, 6-30-80)

No bonds will be required to insure performance of special conditions.

N. Such other conditions as are necessary to implement policies contained in the Florence Comprehensive Plan. (Ord. 680, 1- 11-83)

Other conditions needed in order to implement policies contained within the Florence Comprehensive Plan will be addressed as part of that section of this report.

10-6-9: LAPSE OF DESIGN REVIEW APPROVAL: Authorization of a design review permit shall be void one (1) year after the date of approval of a design review application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

- A. The request for an extension is made in writing prior to expiration of the original approval.**
- B. There are special or unusual circumstances that exist which warrant an extension.**
- C. No material changes of surrounding land uses or zoning has occurred.**

The Planning Commission may deny the request for an extension of a design review permit if new land use regulations have been adopted that affect the applicant's proposal. (Ord 26, 2008)

No major modifications of the structure have been proposed nor granted. Design Review was necessary by the nature of the application. The approval for Design Review of the proposed facility shall expire on August 9, 2017. **(Condition 4.4)**

TITLE 10: CHAPTER 27: MAINSTREET DISTRICT

10-27-3: BUILDINGS AND USES PERMITTED CONDITIONALLY: The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following buildings and uses:

n. Marijuana Retailers

The proposed use is a conditional use in the Mainstreet Area B Zoning District. The applicant has submitted a request for a conditional use permit per FCC 10-4-4.

10-27-4 Lot and Yard Dimensions

- A. Minimum Lot dimensions: The minimum lot width shall be 25’.**
- B. Minimum Lot Area: The minimum lot area shall be 2500 square feet.**
- C. Lot coverage: The Design Review Board may allow up to a maximum of 90% lot coverage by buildings and other impervious surfaces.**
- D. Yard Regulations:**

Area “B”:

Single family residential uses shall meet the standards of the Single Family Residential District. Multi-family units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

The lot and structure are pre-existing and meet the requirements for minimum lot dimensions and minimum lot area. The width of the lot is greater than 25 feet and the lot area is 6,970 square feet. These criteria are met.

10-27-5 Site and Development Provisions

- A. Building or Structural Height Limitations**

Area “B”:

Single family residential uses shall meet the standards of the Single Family Residential District. Multi-family units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

The applicant has not indicated the height of their building, as a single-story residential to commercial conversion, it does not meet the height requirements for the Mainstreet District. However, the building, as mentioned, is pre-existing. No greater height requirements have been proposed or will be needed.

B. Fences, Hedges, Walls and Landscaping: Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

Area “B”:

Single family residential uses shall meet the standards of the Single Family Residential District. Multifamily units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

The applicant has submitted a landscaping plan. Proposed landscaping, including what is existing on the site will be reviewed below.

C. Access and Circulation. Refer to Section 10-35 Access and Circulation of this Title for Requirements.

- 1. Access Management Plan: All access points to Highway 101 shall be governed by the Access Management Plan for Highway 101 in Downtown Florence.**

The proposed facility is located in a structure that is pre-existing. The existing access is approved and will be upgraded by the applicant to meet City Code.

- 2. Sidewalks abutting buildings on Highway 101, Highway 126, and local streets within the Mainstreet District shall be at least 8’ in width, except collector streets within the Mainstreet District without on-street parking as described below. Sidewalk area beyond the standard 6’ sidewalk width may be surfaced with pavers, brick or other similar materials. Maintenance and repair of pavers, brick, etc. are the responsibility of the business/property owner.**
- 3. Access to all floors of all commercial buildings and structures shall meet ADA requirements.**

The applicant, through the Conditions of Approval of Resolution PC 15 10 CUP 05, was required to install sidewalks to replace the damaged sidewalks. This has been accomplished. The facility has a pre-existing ramp which meets ADA requirements. Customer access and ADA access will be through the front of the building at a single entrance. These criteria are met.

D. Parking and Loading Spaces

Area “A” as shown on the following page:

Parking spaces may be located on-street in front of the front yard of the lot (if approved by ODOT on Highways 101/126) and/or may be in interior shared parking lots within the block where the applicant’s lot is located, or in a shared lot in another block. Business/property owners are strongly encouraged to cooperate in proposing joint parking agreement areas as part of development or redevelopment proposals. Parking will not be permitted in front yards. The Planning Commission may grant parking under a temporary arrangement if an interior or off-site shared parking lot is planned and approved, but not yet constructed, and/or may require the applicant or owner to sign a non-remonstrance agreement for parking improvements. Parking standards in Chapter 3 of this Title shall be used as a guideline for determining parking need.

Bicycle racks shall be provided either in the interior parking lot, or by an entrance if located outside the required minimum 6’ pedestrian walkway.

Area “B”:

Single family residential uses shall meet the standards of the Single Family Residential District. Multifamily units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards, except that the 20’ height requirements do not apply.

Parking has been proposed on-street and in a rear lot. The proposed parking is appropriate for the Mainstreet District. Bicycle racks were installed adjacent to the entrance to the building. These criteria are met.

E. Vision Clearance.

Refer to Section 10-1-14 and 10-35-2-13 of this Title for definitions and requirements.

F. Signs.

Shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

Vision Clearance will be addressed under FCC 10-35 below. The applicant has not turned in any information regarding signage that will be reviewed by the Building Department in accordance with Title 4 Chapter 7 of City Code.

G. Lighting.

Street lighting, building lighting and lighting of parking lots and walkways shall conform to the following lighting standards:

- 1. Light fixtures shall conform to the lighting styles in the Architectural Guidelines.**
- 2. Lighting shall be pedestrian scaled.**
- 3. Refer to Section 10-37 of this Title for additional requirements.**
- 4. Wiring for historic fixtures shall be underground. Other overhead wiring shall be placed underground, where possible.**

Building lighting will be reviewed as part of FCC 10-37 of this report.

The nearest historic fixture is located several blocks away at the Siuslaw Pioneer Museum.

H. Design Review.

All uses except single family and residential duplex units shall be subject to Design Review criteria to insure compatibility and integration with the Mainstreet character, and to encourage revitalization. Architectural design shall be reviewed against the Downtown Architectural Guidelines to determine compatibility, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516.

These criteria have been addressed under their appropriate code sections.

I. Trash Enclosures.

All trash enclosures shall be located in side or rear yards, and shall be screened from street or pedestrian courtyard view with a permanent solid fence or wall at least 6' high. Service shall be from an abutting alley or interior parking lot where possible. Gates opening to non-street faces may be slatted chain link.

The applicant has not proposed any trash enclosures. Since their last approval, the applicant has kept their trash inside the building. A site visit by staff determined that their trash containers have been kept outside, contrary to their previous Conditions of Approval.

The applicant shall place their trash containers within a trash enclosure meeting the requirements of FCC 10-27-5-I. **(Condition 7.1)**

J. General Provisions.

1. **Outdoor storage of materials and display of merchandise for sale shall be subject to approval by the Design Review Board.**
2. **Where there is manufacturing, compounding, processing or treatment of products for wholesale, the front twenty-five (25) feet of the building's ground floor facing the principal commercial street shall be used for commercial sales, business or professional offices.**
3. **Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance.**

Outdoor storage of materials, manufacturing, compounding, processing, and treatment of products shall not be allowed. Unreasonable odor, dust, smoke, noise, vibration, or appearance shall not be allowed. Odors may not emanate from the facility. **(Condition 7.2)**

TITLE 10: CHAPTER 34: LANDSCAPING

10-34-3: LANDSCAPING

10-34-3-1: Applicability. Except for single-family and duplex dwelling uses, this Section shall apply to all new development as well as changes of use and expansions as described below, and shall apply in all districts except where superseded by specific zoning district requirements. These provisions shall be in addition to the provisions of FCC Title 9 Chapter 5 and where there are conflicts, the provisions of Title 9 Chapter 5 shall prevail.

- B.** For modifications or additions to existing development, landscaping shall be brought up to current code requirements in the same proportion as the increase in use and/or building size. **(Ord. 4, 2011)**

The applicant has submitted an updated landscape plan showing all landscaping on the property.

10-34-3-2: Landscaping Plan Required. A landscape plan is required. All landscape plans shall include the following information:

- A.** The location and height of existing and proposed fences and walls, buffering or screening materials.
- B.** The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas.
- C.** The location, size, and species of the new proposed plant materials (at time of planting).

- D. The location(s) of areas where existing vegetation will be cleared and the location(s) of areas where existing vegetation will be preserved, delineated on a recent aerial photo or site plan drawn to scale.
- E. Existing and proposed building and pavement outlines.
- F. Specifications for soil at time of planting, irrigation and anticipated planting schedule.
- G. Other information as deemed appropriate by the City Planning Official.

The applicant has provided a landscaping plan with the location of existing trees and shrubs. The applicant chose these plantings from the Tree and Plan List for the City of Florence.

10-34-3-3: Landscape Area and Planting Standards. The minimum landscaping area is 15% of the lot area, unless specified otherwise in the applicable zoning district for the proposed use. This required minimum landscaping area may be reduced if preservation credits are earned as specified in Section 10-34-2-4.

The minimum landscaped area for the Mainstreet District is 10% of the lot area. In this particular case, the area for consideration is that defined in the Narrative. The total site area under consideration is 3,510 square feet. Ten percent of 3,510 square feet, or the required landscaped area, is 351 square feet. Currently, more than 507 square feet are landscaped. This criterion is met.

- A. Landscaping shall include planting and maintenance of the following:
 - 1. One tree per 30 lineal feet as measured along all lot lines that are adjacent to a street.
 - 2. Six shrubs per 30 lineal feet as measured along all lot lines that are adjacent to a street.
 - 3. Living plant materials shall cover a minimum of 70 percent of the required landscape area within 5 years of planting.
 - 4. Except for preservation of existing significant vegetation, the required plant materials on-site shall be located in areas within the first 20 feet of any lot line that abuts a street. Exceptions may be granted where impracticable to meet this requirement or the intent is better served. Required trees may be located within the right-of-way and must comply with Section 10-34-4. Plant materials may be installed in any arrangement and do not need to be equally spaced nor linear in design. Plantings and maintenance shall comply with the vision clearance standards of FCC 10-35-2-13.

5. Pocket-planting with a soil-compost blend around plants and trees shall be used to ensure healthy growth.

The proposed site has 45 lineal feet of street frontage. In addition, the site has 507 square feet of grass areas along the eastern property line. Living plant materials currently cover more than 70% of the required planting area.

The applicant has provided a landscaping plan showing that there 17 shrubs and three trees on the site. A site visit determined there are currently three trees and eight shrubs as well as a number of ground cover plants on the property. The site, per code, requires at least nine shrubs for 45 feet of street frontage.

The applicant shall pocket-plant one additional shrub in order to meet code requirements for the site width. **(Condition 8.1)**

10-34-3-5: Irrigation. Permanent, underground irrigation is required for all landscaping, except existing native vegetation that is preserved in accordance with the specifications of Section 10-34-2-2 and new drought tolerant plants which must have temporary irrigation for plant establishment. All irrigation systems require an irrigation permit and shall be installed with a backflow prevention device per FCC 9-2-3-5.

Staff performed a site visit to the applicant's property which determined that previously required plantings are not being irrigated regularly.

Plantings shall be irrigated unless deemed a drought tolerant plant through the Tree and Plant List. In which case, the applicant shall perform temporary irrigation until the plant has become established or an irrigation system has been installed. If the applicant has not permanently irrigated the plantings prior to August 9, 2017, and the plantings appear to still require regular irrigation, the applicant shall install a permanent, underground irrigation system with a backflow prevention device to all installed landscaping elements. **(Condition 8.2)**

B. Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering area or driveway is adjacent to a building, the area shall be separated from the building by a curb and a raised walkway, plaza, or landscaped buffer not less than five (5) feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles.

Because of the pre-existing layout of the buildings and driveway, a landscaped buffer was not required between the driveway and building. A raised curb was required and installed.

10-34-3-8: Maintenance. If the plantings fail to survive, the property owner shall replace them with an equivalent specimen (i.e., native Rhododendron replaces native Rhododendron, evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) within six (6) months of their dying or

removal, whichever comes first. All man-made features required by this Code shall be maintained in good condition, or otherwise replaced by the owner within six (6) months of any such feature being removed or irreversibly damaged (whichever comes first).

Upon staff site visit, several plantings appeared to be struggling and were not receiving water.

The applicant shall maintain their landscaping and replace any failed plantings with an equivalent specimen within six months of their dying or removal. **(Condition 8.3)**

TITLE 10: CHAPTER 35: ACCESS AND CIRCULATION

10-35-2-12: Driveway Design: All openings onto a public right-of-way and driveways shall conform to the following:

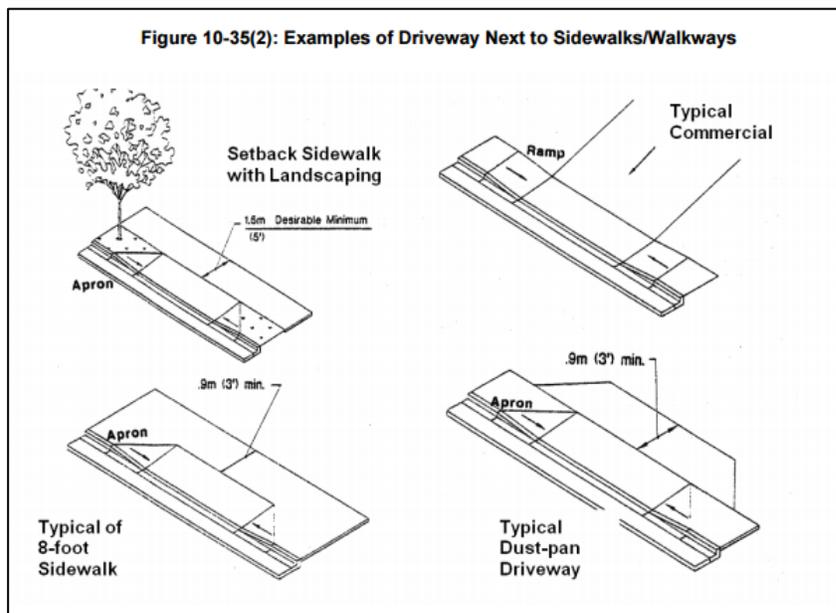
- A. Driveway Approaches.** Driveway approaches, including private alleys, shall be approved by the Public Work Director and designed and located with preference given to the lowest functional classification street. Consideration shall also be given to the characteristics of the property, including location, size and orientation of structures on site, number of driveways needed to accommodate anticipated traffic, location and spacing of adjacent or opposite driveways.
- B. Driveways.** Driveways shall meet the following standards, subject to review and approval by the Public Works Director:
 - 2.** Driveways shall have a minimum width of ten (10) feet, except where a driveway serves as a fire apparatus lane, in which case city-approved driveway surface of 12 feet minimum width shall be provided within an unrestricted, twenty (20) foot aisle, or as approved by the Fire Code Official.
 - 4.** One-way driveways shall have appropriate signage designating the driveway as a oneway connection. Fire apparatus lanes shall be so marked (parking prohibited).
 - 5.** The maximum allowable driveway grade is fifteen (15) percent, except that driveway grades exceeding fifteen (15) percent may be allowed, subject to review and approval by the Public Works Director and Fire Code Official, provided that the applicant has provided an engineered plan for the driveway. The plan shall be stamped by a registered geotechnical engineer or civil engineer, and approved by the Public Works Director.

The applicant was required to provide a driveway of minimum 12 feet in width and no steeper than 15 percent from Rhododendron Drive to the southern edge of the parking pad. This driveway was provided. Appropriate signage designating the

driveway as having traffic flowing in only one-direction at a time was also installed. These criteria are met.

C. Driveway Apron Construction. Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 10-35(2) (pictured on next page). Driveway aprons shall conform to ADA requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than three (3) feet in width, with a cross slope not exceeding two (2) percent, and providing for landing areas and ramps at intersections. Driveways are subject to review by the Public Works Director.

The applicant received the approval of the Public Works Director for the driveway approach, apron, and grade prior to the issuance of the building's Certificate of Occupancy and City business license.



10-35-2-13: Vertical Clearances: Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.

The applicant has not proposed any structures that would have less than the minimum vertical clearance within the driveway area.

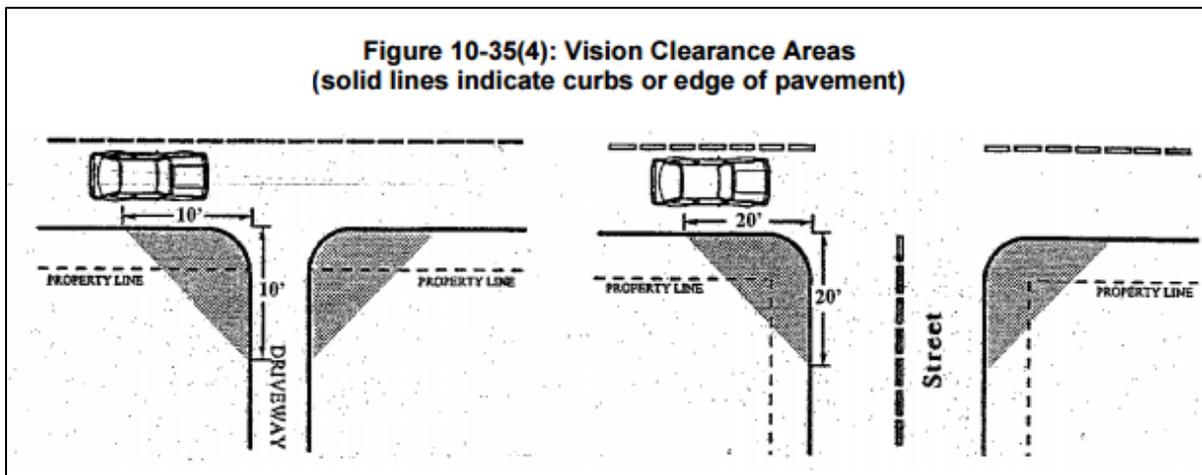
10-35-2-14: Vision Clearance: No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) shall block the area between two and one-half feet (2 ½') and eight (8) feet in height in "vision clearance areas" on streets, driveways, alleys, mid-block lanes, or multi-use paths where no traffic control

stop sign or signal is provided, as shown in Figure 10-35(4). The following requirements shall apply in all zoning districts:

- B. At the intersection of an alley or driveway and a street, the minimum vision clearance shall be ten feet (10').

The sides of the minimum vision clearance triangle are the curb line or, where no curb exists, the edge of pavement. Vision clearance requirements may be modified by the Public Works Director upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). This standard does not apply to light standards, utility poles, trees trunks and similar objects. Refer to Section 10-1-4 of this Title for definition.

The applicant shall maintain the vision clearance area free of visual obstructions from 2' 6" to 8' in height. (Condition 9)



10-35-3: PEDESTRIAN ACCESS AND CIRCULATION: All new development shall be required to install sidewalks along the street frontage, unless the City has a planned street improvement, which would require a non-remonstrance agreement.

10-35-3-1: Sidewalk Requirements:

- A. Requirements: Sidewalks shall be newly constructed or brought up to current standards concurrently with development under any of the following conditions:
 - 1. Upon any new development of property.
- B. Exceptions: The Public Works Director may issue a permit and certificate allowing noncompliance with the provisions of subsection (A) of this section and obtain instead a nonremonstrance agreement for future improvements when, in the Public Works Director's

determination, the construction of a sidewalk is impractical for one or more of the following reasons:

1. Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time.
 2. Future installation of public utilities or street paving would, of necessity, cause severe damage to existing sidewalks.
 3. Topography or contours make the construction of a sidewalk impractical.
 4. Physical improvements are present along the existing street that prevents a reasonable installation within the right-of-way or adjacent property.
 5. If the proposed development is in a residential zoning district and there are no sidewalks within 400 linear feet.
- C. Appeals: If the owner, builder or contractor considers any of the requirements impractical for any reason, s/he may appeal the decision to the Planning Commission.
- D. Timing: Sidewalks shall be constructed and approved by the Public Works Department prior to final inspection for the associated building permit. No certificate of occupancy may be issued until the required sidewalks are constructed or financially secured.

The applicant has installed sidewalks which meet code criteria for this district.

TITLE 10: CHAPTER 37: LIGHTING

10-37-2: APPLICABILITY: Section 10-37 applies to installation of all lighting fixtures as of the effective date of this Ordinance, except as exempted by provision of this Ordinance. Devices include but are not limited to, lights for: buildings and structures, recreational areas, parking lot and maneuvering areas, landscape areas, streets and street signs, product display areas, building overhangs and open canopies, holiday celebrations, and construction lights.

- B. Major Additions or Alterations - If a major addition occurs on a property, lighting for the entire property shall comply with the requirements of this Code. For purposes of this section, the following are considered to be major additions:
3. Existing lighting on sites requiring a conditional use permit or variance after the effective date of this ordinance.

As an application for a conditional use permit, exterior lighting fixtures installed met the requirements of Title 10, Chapter 37.

10-37-3: LIGHTING PLANS REQUIRED: All applications for building permits and land use planning review which include installation of exterior lighting fixtures, not exempted, shall include the number of luminaires, the number of lamps in each luminaire, a photometric report for each type of luminaire and a site plan with the photometric plan of the lumen output.

The City shall have the authority to request additional information in order to achieve the purposes of this Ordinance.

The applicant, through Resolution PC 15 10 CUP 05 has submitted lighting information to the Planning Commission for review. These proposed lighting fixtures have since been approved and installed. The applicant meets all criteria for Chapter 37: Lighting.

10-37-4: LIGHTING STANDARDS:

- A. All exterior lighting fixtures subject to this code section must be designed as a full cut-off fixture or have a shielding method to direct light emissions downward below the horizontal plane onto the site and does not shine illumination or glare skyward or onto adjacent or nearby property.**
- B. Parking areas shall have lighting to provide at least two (2) foot-candles of illumination at any point in the entire lot with a maximum of five (5) footcandles over parking spaces and walkways. The Design Review Board may decrease the minimum if the applicant can provide documentation that the overall parking lot has adequate lighting. The Design Review Board may increase the maximum on a case-by-case basis, with no greater than 7 foot-candles measured directly under the light fixture.**
- C. Lighting in or adjacent to residential zones or residential uses shall not exceed twenty feet in height as measured from the adjacent grade to the top of the light fixture. Heights in other zoning districts shall not exceed 25 feet unless the Design Review Board adopts findings that the higher light fixtures are necessary to achieve proper illumination levels.**
- D. Main exterior lights for commercial, institutional, and industrial buildings, landscaping and parking lots shall be extinguished at end of business hours with a minimum lighting remaining for personal and building security and safety after hours.**
- E. A thirty-day review period beginning with the first day in business using the new lighting system shall be required to evaluate and adjust illumination levels of lighting. The City may ask for lighting to be**

adjusted in this time period based on public comments or staff inspections.

The applicant meets this criterion for all existing lighting fixtures. The lighting fixtures currently on the building meet the requirements of the lighting code for shielding and glare-prevention. This criterion is met.

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

CHAPTER 2: LAND USE

COMMERCIAL

POLICY 3. The City shall promote the efficient use of available lands designated for the establishment of commercial uses.

The site of the proposed marijuana retail facility is appropriate for the use proposed. By locating in an existing building, the applicant is efficiently using available, built commercial facilities rather than leaving a building vacant and constructing a new facility.

POLICY 4. The City shall encourage commercial developments which enhance their surroundings through the on-site use of attractive architecture, relative scale, abundant landscaping, vehicular access improvements and appropriate signage.

The applicant has proposed a recreational marijuana retail facility within a structure which could be considered architecturally interesting and appropriate for the surrounding district. Future large-scale development of the site will meet architectural guidelines and the criteria of the Florence Downtown Plan. Landscaping has been proposed and shall enhance the surroundings of the building.

POLICY 6. All commercial developments shall be expected to meet a minimum level of improvement and development standards, either initially or at the time of reuse or redevelopment.

The applicant is proposing a reuse and redevelopment of a commercial unit located at 1480 Rhododendron. The applicant shall meet the minimum levels of improvement and development standards as described throughout Florence City Code.

POLICY 9. Commercial facilities along highways and arterials shall be designed to avoid congestion through alternative local street access or consistent with the City's access management guidelines found within its Transportation System Plan.

The proposed location of the facility has approved access through a driveway onto Rhododendron Drive rather than Highway 101. The access is consistent with the City's access management guidelines.

VI. ALTERNATIVES

- 1. Approve the application based on the findings of compliance with City regulations.**
 - 2. Modify the findings, reasons or conditions, and approve the request as modified.**
 - 3. Deny the application based on the Commission's findings.**
 - 4. Continue the Public Hearing to a date certain if more information is needed.**
-

VI. CONCLUSIONS AND RECOMMENDATIONS

Staff finds that the proposed application meets the requirements of City Code with conditions, and recommends approval of the conditional use permit subject to the following conditions.

VII. CONDITIONS OF APPROVAL

The application, as presented, meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met.

- 1. Approval for shall be shown on:**

"A" Findings of Fact

"B" Site & Updated Landscaping Plan

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

- 2. Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission action as**

documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of a building permit.

3. The parking spaces shall be maintained and shall not be eliminated, used for the storage of materials of any type, or used for loading or unloading operations during business hours.

4. Conditional Use Permit Requirements

- 4.1. Authorization of a conditional use permit shall be void one (1) year after the date of approval, August 9, 2017, unless the use commences by this date and no building permits are necessary.
- 4.2. The discontinuance of the existing conditional use shall be considered the cessation of operations of the medical marijuana dispensary. The discontinuance of the retail recreational conditional use shall be considered the cessation of operations of the retail marijuana facility. This conditional use permit shall not be transferrable and discontinuance shall be considered immediate following cessation of approved activities at 1480 Rhododendron Drive as prescribed in FCC 10-4-9.
- 4.3. The applicant shall provide a cigarette receptacle for the deposit of cigarette butts further than 10 feet from the main entrance to the building. The applicant shall take other measures and post signage as necessary per the Oregon ICAA.

5. Timelines & Licensing

- 5.1. Unless otherwise specified, Conditions of Approval shall be completed prior to February 9, 2017.
- 5.2. The applicant shall provide manufacturer's information prior to six months from the date of issuance of the conditional use permit (February 9, 2017) of installation of an effective odor control system such as by carbon filtration.
- 5.3. Upon final approval, the applicant shall submit proof of current and active registration with the OLCC to the City prior to operation of the recreational marijuana retail facility. This information shall be kept current and submitted to the City following any changes in licensing or property ownership.

6. Design Review

- 6.1. The applicant shall post signage within their business encouraging the use of on-street parking in front of the business and parking to the rear in order to discourage vehicles from encroaching onto other nearby properties.
- 6.2. The applicant has proposed no modification of the color, building materials, or exterior appearance, but shall abide by the policies established in the

Downtown Implementation Plan. If the applicant or property owner chooses to change the building color, colors chosen shall be of a muted, coastal-themed palette and shall be approved by the Planning Department.

7. Zoning Requirements

- 7.1. The applicant shall place their trash containers within a trash enclosure meeting the requirements of FCC 10-27-5-I.
- 7.2. Outdoor storage of materials, manufacturing, compounding, processing, and treatment of products shall not be allowed. Unreasonable odor, dust, smoke, noise, vibration, or appearance shall not be allowed. Odors may not emanate from the facility.

8. Landscaping

- 8.1. The applicant shall pocket-plant one additional shrub in order to meet code requirements for the site width.
- 8.2. Plantings shall be irrigated unless deemed a drought tolerant plant through the Tree and Plant List. In which case, the applicant shall perform temporary irrigation until the plant has become established or an irrigation system has been installed. If the applicant has not permanently irrigated the plantings prior to August 9, 2017, and the plantings appear to still require regular irrigation, the applicant shall install a permanent, underground irrigation system with a backflow prevention device to all installed landscaping elements.
- 8.3. The applicant shall maintain their landscaping and replace any failed plantings with an equivalent specimen within six months of their dying or removal.
- 9. The applicant shall maintain the vision clearance area free of visual obstructions from 2' 6" to 8' in height.

VIII. EXHIBITS

| |
|--|
| "A" Findings of Fact |
| "B" Site & Updated Landscaping Plan |
| "C" Land Use Application |
| Included for Reference: Resolution PC 15 10 CUP 05 |

BudsHU

Landscaping Plan

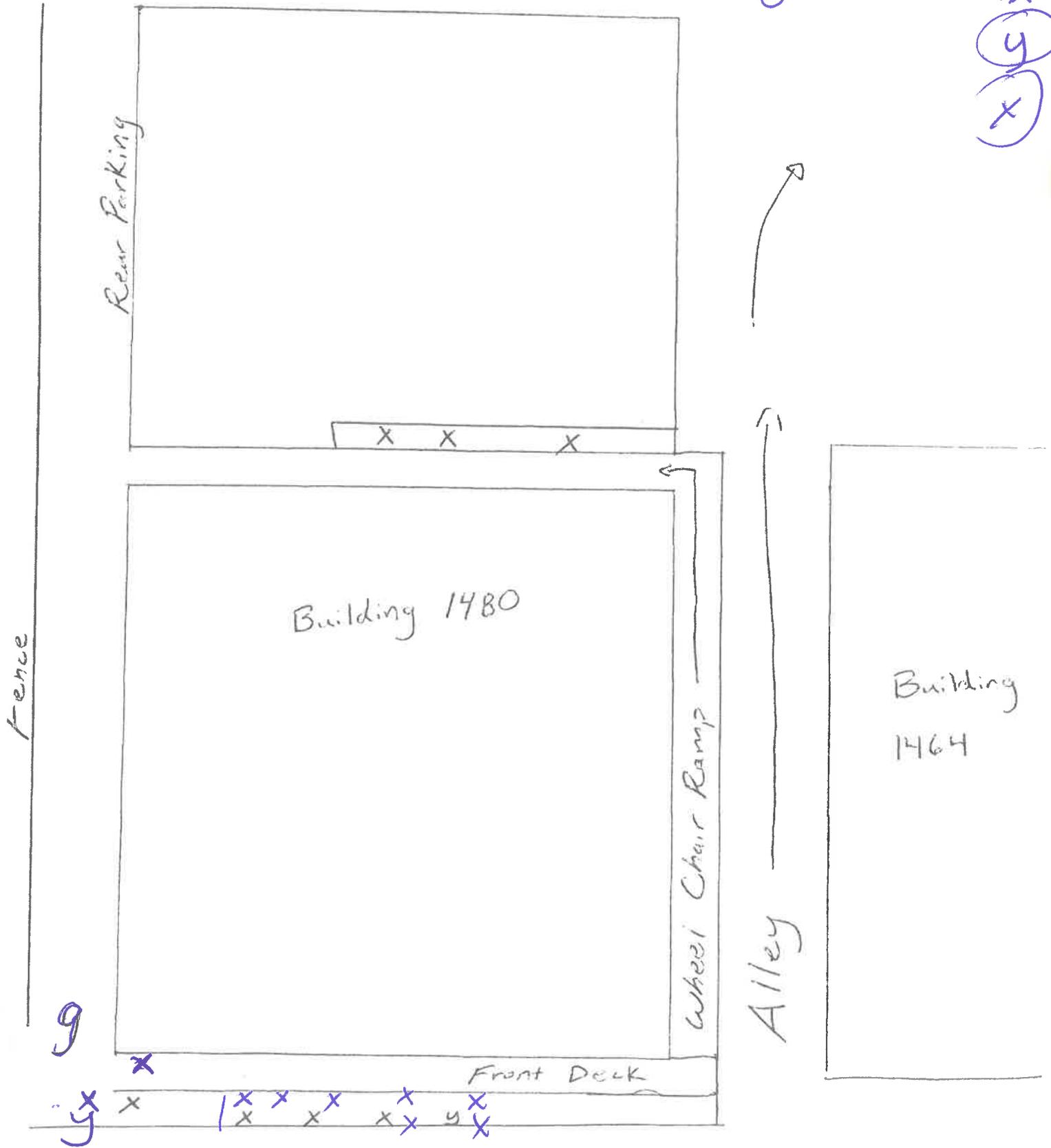
JUN 27 2016

By: _____

x = Bush

y = tree

g: Bite Rock





City of Florence
Community Development Department
250 Highway 101
Florence, OR 97439
Phone: (541) 997 - 8237
Fax: (541) 997 - 4109
www.ci.florence.or.us

Type of Request

Design Review (DR) (See FCC 10-6) Conditional Use Permit (CUP) (See FCC 10-4)

Applicant Information

Name: Bud's 44 Phone 1: [REDACTED]
E-mail Address: [REDACTED] Phone 2: _____
Address: [REDACTED]
Signature: [REDACTED] Date: 6.14.16
Applicant's Representative (if any): _____

Property Owner Information

Name: Francis Brooks Phone 1: [REDACTED]
E-mail Address: _____ Phone 2: _____
Address: [REDACTED]
Signature: [REDACTED] Date: 06-15-16
Applicant's Representative (if any): _____

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

For Office Use Only:



Approved

Exhibit

Property Description

Site Address: 1480 Rhododendron Dr.

General Description: _____

Assessor's Map No.: _____ - _____ - _____ - _____ Tax lot(s): _____

Zoning District: _____

Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map (FCC 10-1-1-4-B-3): _____

Project Description

Square feet of new: _____ Square feet of existing: _____

Hours of operation: _____ Existing parking spaces: _____

Is any project phasing anticipated? (Check One): Yes No

Timetable of proposed improvements: _____

Will there be impacts such as noise, dust, or outdoor storage? Yes No

If yes, please describe: _____

Proposal: (Describe the project in detail, what is being proposed, size, objectives, and what is desired by the project. Attach additional sheets as necessary)

*To use the facility as a recreational Dispensary
From a medical Marijuana Dispensary to a Recreational
use.*

For Office Use Only:

Date Submitted: _____ Fee: _____

Received by: _____

Paid

Other Information Required

Below is a check list of the required information to determine if an application is complete. The Florence City Code is available at City Hall or online at www.ci.florence.or.us (click on "City Code" which is located on the main page). You will also find the *Florence Transportation Plan, Downtown Architectural Guidelines, Highway 101 Access Management Plans, Stormwater Design Manual, and Stormwater Management Plan* available on the City's website or at the City Hall for review or purchase.

Site Plan existing and proposed drawn to scale, showing the following:

- Existing and proposed site boundaries and proposed lot boundaries
- Existing and proposed structures
- Existing and proposed roads, streets, rights-of-way, pedestrian walks (widths and types), names, grades, radii
- Existing and proposed utility services – location of water and sewer lines, drainage routes and facilities, manholes, meters, fire hydrants, etc...
- Areas of scenic value, wildlife habitat, potential hazard areas (floodplains, geologic instability), wetlands, or other areas of special significance

Note: Please submit an electronic copy of any plans submitted larger than 11" x 17"

A title report from a title company showing:

- Existing liens
- Access and/or utility easements
- Legal description

Utility Plan:

List all utilities currently available to the site AND add this information to a utility plan map (See FCC 10-1-1-4-B-2).

Note: For help identifying the location of utilities, please call Dig Safely Oregon at 1-800-332-2344 or dial 811. Call Public Works (541-997-4106) to determine the size of utility lines. Call the Fire Marshal (541-997-3212) to determine fire flows.

Water Supply: _____ - inch line available from _____ (Street)
Sanitary Sewer: _____ - inch line available from _____ (Street)
Storm Sewer: _____ - inch line available from _____ (Street)

Check if available: Telephone Cable TV Electrical Other (Such as fiber optics)

Please provide a plan drawn to common scale showing the location of existing and proposed buildings, existing and proposed utility services, location and size of water and sewer lines, drainage routes, manholes, meters, fire hydrants, fire flows, and 2' contours.

Lighting Plan:

Show location of each light fixture, diagram illustrating foot-candle distribution, and elevation drawing of each light fixture in conformance to FCC 10-37.

Access Permits:

For properties along State or County roads (see FCC 10-35-2-4), a state or county access permit or application is required. For properties on Highway 101 located between Highway 126 and the Siuslaw River Bridge, please also refer to the *Highway 101 Access Management Plan*.

Proposed:

Are new streets planned or needed? (Please refer to the Transportation System Plan)

Yes No If yes, please describe: _____

Are utility upgrades or extensions planned or needed?

Yes No If yes, please describe: _____

If you answered yes to either question above, how will these improvements be funded?

Stormwater Plan:

Per FCC 9-5-2-4, a drainage plan is required for projects which add **500 SQUARE FEET OR GREATER** of impervious surface area or clearing vegetation from **10,000 SQUARE FEET OR GREATER** (single family homes are excluded). Please refer to FCC 9-5 and the Florence Stormwater Design Manual for requirements.

Traffic Impact Study:

Per FCC 10-1-1-4-D, larger projects may require a Traffic Impact Study. Please attach a TIA if needed.

Design & Architectural Drawings:

Per FCC 10-6-6-C, if applying for a design review, please attach or describe colors and materials being used as well as elevations of the proposed building.

Landscaping Plan:

Per FCC 10-34-3-2, the location, size and species of newly proposed plant materials, location(s) of area where existing vegetation will be cleared and/or preserved, irrigation and anticipated planting schedule, and location of existing and proposed fences and walls including buffering and screening materials.

Erosion Control:

Projects of over 1 acre of land disturbance over a period of time (please see FCC 10-36-4) are required to obtain a National Pollution Discharge Elimination System permit from the Department of Environmental Quality prior to the issuance of a development permit or land use permit based on appropriate criteria.

Site Investigation Report:

Refer to FCC 10-7-3 for the list of hazard areas within the City Limits which will require a SIR.

Old Town District:

Survey: Properties within the Old Town District require a recent survey per FCC 10-17 for all new development, redevelopment, and additions which show property lines, easements, 2' contours, existing structures, floodplain, and highest observed tide.

Visual Aids: New construction or story additions require visual aids. Please refer to FCC 10-17.

**CITY OF FLORENCE
PLANNING COMMISSION**

RESOLUTION PC 15 10 CUP 05

A REQUEST FOR A CONDITIONAL USE PERMIT TO OPEN AND OPERATE A MEDICAL MARIJUANA FACILITY AT 1480 HIGHWAY 101 IN THE MAINSTREET AREA B ZONING DISTRICT, ASSESSOR’S MAP 18-12-27-44 TAXLOT 11500.

WHEREAS, application was made by Dustin Foskett of Buds4U for a Conditional Use Permit as required by FCC 10-1-1-4, FCC 10-4-4, and FCC 10-4-12; and

WHEREAS, the Planning Commission/Design Review Board met in a public hearing on April 28, 2015 as outlined in Florence City Code 10-1-1-5, to consider the application, evidence in the record, and testimony received, and

WHEREAS, the Planning Commission/Design Review Board determined per FCC 10-4-10, after review of the application, testimony and evidence in the record, that the application meets the criteria through compliance with certain Conditions of Approval; and

WHEREAS, the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact, staff recommendation and evidence and testimony presented to them, that the application meets the applicable criteria.

NOW THEREFORE BE IT RESOLVED that the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact and the evidence in record that:

The request for a Conditional Use Permit to approve the location of a medical marijuana facility in the Mainstreet Area B zoning district meets the applicable criteria in Florence City Code and the Florence Realization 2020 Comprehensive Plan with the conditions of approval as listed below.

Conditions of Approval:

1. Approval for shall be shown on:

”A” *Findings of Fact*

“B” Land Use Application & Statement

“C” Parking, Landscaping, and Lighting Plans

Findings of Fact attached as Exhibit “A” are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. **Building Permits**

2.1. Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of a building permit.

2.2. A building permit shall be required for construction of the driveway.

3. **Parking**

3.1. The property owner and applicant shall ensure that the off-street parking provided is maintained and remains available and exclusive as off-street parking and loading. Because of the shared nature of the property, the applicant shall designate their provided off-street parking as reserved for that business.

3.2. The parking spaces shall be maintained and shall not be eliminated, used for the storage of materials of any type, or used for loading or unloading operations during business hours.

3.3. The applicant shall provide one ADA Van Accessible parking space with a minimum 96" wide access aisle. The required accessible parking space shall be identified with signs and pavement marking identifying them as reserved for persons with disabilities. The sign identifying the space as reserved shall be posted between 42 inches and 72 inches in height above the pavement level and identified as a van space.

3.4. The driveway shall be graded so as not to drain storm water over the public sidewalks along Rhododendron Drive.

3.5. Should the property to the east of the parking area become developed while this parking space is still in use, the applicant/property owner shall provide screening so that headlights do not shine onto adjacent residential uses.

3.6. The applicant shall provide a building permit application with exact dimensions of the area to-be paved as well as the curb cut dimensions, grading and drainage details, and specifications for signage indicating that ADA accessible parking is located at the rear of the building as well as specifications for signage of the ADA accessible parking space.

3.7. The applicant shall submit with their building permit application plans which

demonstrate an off-street parking space that meets the criteria of FCC 10-3-9, Figure 10-3-(1), and Table 10-3-3.

- 3.8. The applicant shall provide no less than two bicycle parking spaces located no further away from the entrance to the building than the closest parking space, shall be visible from the sidewalk or entrance, and shall have signage designating the spaces as bicycle parking only and meeting the requirements of FCC 10-3-10.
- 3.9. Required bicycle parking shall be provided either in the parking area to the rear of the building or by the entrance.

4. Expiration of Permits

- 4.1. Authorization of a conditional use permit shall be void one (1) year after the date of approval, April 28, 2016, unless a building permit has been issued and substantial construction pursuant thereto has taken place.
- 4.2. The discontinuance of the conditional use shall be considered the cessation of permanent operations at the medical marijuana facility. This conditional use permit shall not be transferrable and discontinuance shall be considered immediate following cessation of approved activities at the facility at 1480 Rhododendron Drive as prescribed in FCC 10-4-9.
- 4.3. Required changes shall have until six months from the date of issuance (September 28, 2015), concurrent with operation of the facility, to be completed. Conditions, unless otherwise stated, shall be met by September 28, 2015 in order to continue operation of the facility.
- 4.4. No major modifications of the structure have been proposed nor granted. Design Review was necessary by the nature of the application. The approval for Design Review of the proposed facility shall expire on April 28, 2016.

5. Oregon Health Authority Approval

- 5.1. Upon final approval, the applicant shall submit proof of current and active registration with the Oregon Health Authority to the City prior to operation of the facility. This information shall be kept current and submitted to the City following any changes in licensing or property ownership.
- 5.2. Current and active registration must be kept at all times during operation of the facility. The applicant, if lacking current registration with the state, shall immediately cease operations until current and active registration is obtained.
- 5.3. The applicant shall provide all documentation related to State license MMD# 11224 prior to submission of building permit and business license applications.

The applicant shall provide any available information prior to final state approval and all licensing information after final state approval.

6. Design

- 6.1. The applicant has proposed no modification of the color, building materials, or exterior appearance, but shall abide by the policies established in the Downtown Implementation Plan. If the applicant chooses to change the building color, colors chosen shall be of a muted, coastal-themed palette and shall be approved by the Planning Department.

7. Zoning Provisions

- 7.1. Trash shall be kept inside or within an enclosure meeting the specifications provided in FCC 10-27-5-I.
- 7.2. Outdoor storage of materials, manufacturing, compounding, processing, and treatment of products shall not be allowed. Unreasonable odor, dust, smoke, noise, vibration, or appearance shall not be allowed. Odors may not emanate from the facility.

8. Landscaping

- 8.1. The applicant shall choose an appropriate plant species and size from the Tree and Plant List for the City of Florence for all new plantings.
- 8.2. Two trees are required and shall be provided by the applicant within the site area. Twelve shrubs will be required in addition to the seven existing and proposed. The shrubs shall be provided by the applicant within the site area. Any new plantings shall cover a minimum of 70% of the required landscape area within 5 years of planting. New plants and trees shall be pocket-planted with a soil-compost blend to ensure healthy growth.
- 8.3. The applicant shall meet the criteria of FCC 10-34-3-4 for all new plantings.
- 8.4. New plantings shall be irrigated unless deemed a drought tolerant plant through the Tree and Plant List. The applicant shall perform temporary irrigation until the plant has become established or an irrigation system has been installed. The applicant shall provide a statement prior to final occupancy of the building stating their preference and intent.
- 8.5. The pre-existing building and ADA ramp do not allow for a proper width driveway and a landscaped area. A raised curb shall be installed, but a landscaped buffer will not be required.
- 8.6. The applicant shall maintain their landscaping and replace any failed plantings

with an equivalent specimen within six months of their dying or removal.

9. Access and Circulation

- 9.1. The applicant shall obtain the approval of the Public Works Director for the driveway approach and grade prior to issuance of the Certificate of Occupancy and City business license. The applicant shall provide, with Public Works Director approval, a driveway of minimum width of 12 feet from Rhododendron Drive to the southern edge of the existing parking pad. The driveway shall have appropriate signage designating the driveway as a one-way connection and shall be graded no steeper than 15 percent without approval of the Public Works Director.
- 9.2. The applicant shall abide by the requirements for driveway apron construction and obtain the approval of the Public Works Director for the driveway apron prior to issuance of the Certificate of Occupancy and City business license.
- 9.3. The applicant shall maintain the vision clearance area free of visual obstructions from 2' 6" to 8' in height.
- 9.4. The applicant shall be responsible for the construction of approved sidewalks, meeting the City Standards and Specifications connecting to those existing on Rhododendron Drive prior to the issuance of a Certificate of Occupancy or City business license.
- 9.5. The applicant shall obtain the required permits from Public Works and check with the Public Works Director for their determination if any of the conditions described in FCC 10-35-3-1-B exist onsite.
- 9.6. The applicant shall provide a barrier to prevent cross-access, either through permanent hardscaping or landscaping. The provided barrier shall prevent vehicular traffic between 1480 Rhododendron Drive and 1464 Rhododendron Drive.

10. Lighting

- 10.1 The applicant shall provide lighting for the parking area that does not extend beyond the horizontal plane onto the site and does not shine illumination or glare skyward or onto adjacent or nearby property.
- 10.2. The applicant will be required to resubmit information regarding the lighting fixtures illuminating the parking lot. The applicant shall meet the criteria of FCC 10-37-4-B with any proposed lighting.
- 10.3. The applicant shall provide information demonstrating that all exterior lighting fixtures meet the requirements of FCC 10-37 and are below 20 feet in height.

INFORMATIONAL

1. Water, sewer, and other utilities may need updating or upgrading, please check with the Public Works Director prior to obtaining building permits.
2. A new curb cut may be required by the Public Works Director. Please check with the Public Works Director prior to obtaining a right-of-way permit to install a driveway apron and sidewalks.

ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD the 28th day of April, 2015.


CURT MUILENBURG, Chairperson 4-29-15
Florence Planning Commission DATE